

# Potential Violation

What would you do?

# Potential Violation

## **Violation Scenario – What steps can you take to deal with a potential violation?**

- 1) Landowner comes in and starts ranting about how stupid and unfair things are. He can't understand why you won't let him drain his little wet spot on his property. He says, "How come you let Jim & Carol build their new house right in the middle of a wetland?"

You respond by saying, "what somebody else is doing is irrelevant to what you are allowed to do on your project."

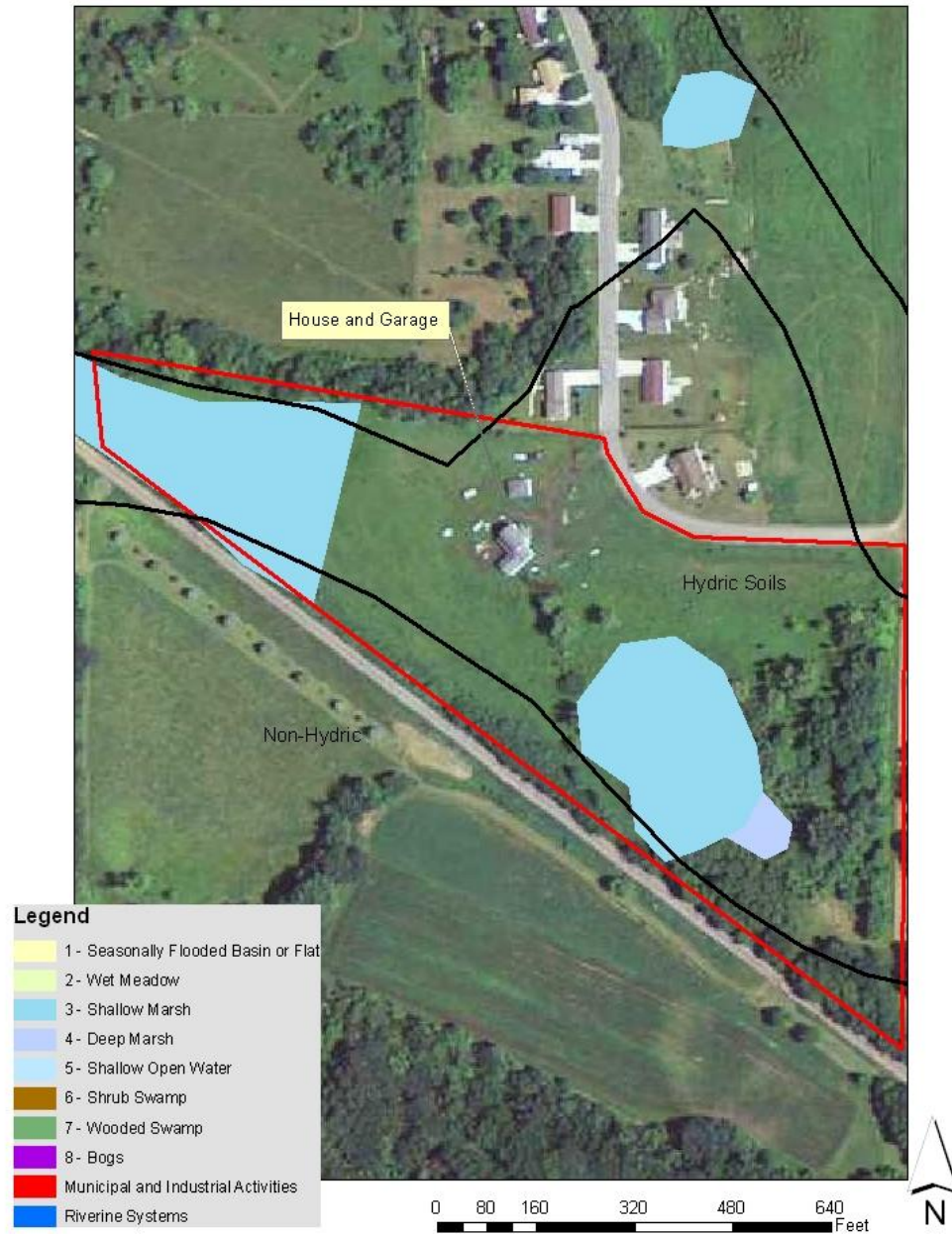
Once you get the landowner to accept "no" for an answer, you ask him a few questions about this new house project that Jim and Carol started.

# Potential Violation

2) Jim & Carol's new house project sounds like something to look into. **What do you do next?**

- Look at resource information in the office
  - Air photos, topo/LiDAR, Soils map, NWI, etc.

# Complaint Site from Neighbor



# Potential Violation

If review looks like the property might contain wetlands, **then what could you do?**

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# Potential Violation

If review looks like it potentially could have wetlands onsite, **then what could you do?**

- Talk to planning/zoning or city building inspector
- Do a quick drive by if located near a road
- If not located near a road, contact landowner for permission to view the site
- Let your DNR Conservation Officer know what is going on

# Potential Violation

- Comments from City Building Inspector:

“I didn’t think there were any wetlands out there”

“It is wet though, the contractors were constantly dragging mud onto the road so we required them to bring in crushed rock to build a driveway”



# Potential Violation





# Potential Violation



# Potential Violation

3) If drive by or site visit lead you to suspect a possible violation, **what would you do now?**

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# Potential Violation

3) If drive by or initial site visit lead you to suspect a possible violation, **what would you do now?**

- Consult with SWCD and/or TEP
- Make arrangements for site visit to gather information
- Inform local CO of need for site visit and discuss potential for Cease & Desist Order if activity is ongoing.

# Potential Violation

**4) What should you bring with you to the field?**

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# Potential Violation

## **4) What should you bring with you to the field?**

- GPS
- Survey gear (laser, 100' tape,.....)
- Soil Auger or Probe
- Vegetation ID Books
- Data Sheets
- Camera
- Shovel
- Appropriate clothing, shoes, etc.



# Potential Violation

**5) What should you do when onsite? What information should you try to obtain?**

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# Potential Violation

## **5) What should you do when onsite? What information should you try to obtain?**

- Previous land use and history of the site
- Talk to landowner or contractors
  - Was fill brought in? Did you install tile for the foundation?
- Confirm the absence of presence of wetlands via sample points and data sheets
- GPS wetland boundary or measure wetland some other way
- GPS or measure fill or drained areas
- Take pictures and label them back in the office

# Potential Violation

**6) Should you discuss with the landowner, what your thoughts are based on your completed site visit?**

- Yes, be honest with them.
- Let me know what the next steps are
- Give them an estimated timeframe

The United States Department of Agriculture  
Natural Resources Conservation Service



County

Minnesota

T110 R035 S28

Jun 02, 2011



Legend

- CLU
- Section
- County
- Highways
- Roads
- Railroads

660 330 0 660 1320 Feet

Projection: UTM NAD83 Zone 15  
1:6,000



Maps are for graphical purposes only. They do not represent a legal survey. While every effort has been made to ensure that these data are accurate and reliable within the limits of the current state of the art, NRCS cannot assume liability for any damages caused by any errors or omissions in the data, nor as a result of the failure of the data to function on a particular system. NRCS makes no warranty, expressed or implied, nor does the fact of distribution constitute such a warranty.

Samples Points:

#1 - 5 = Wetland

#6 = Upland

Project/Site Ref: Building City/County: \_\_\_\_\_ Sampling Date: 02 June 2011  
Applicant/Owner: \_\_\_\_\_ State: MN Sampling Point: 3  
Investigator(s): \_\_\_\_\_ Section, Township, Range: T110N R35W Sec 28  
Landform (hillslope, terrace, etc.): \_\_\_\_\_ Level \_\_\_\_\_ Local relief (concave, convex, none): none  
Slope (%): 0-2% Lat: \_\_\_\_\_ Long: \_\_\_\_\_ Datum: \_\_\_\_\_  
Soil Map Unit Name 12S1B WWI Classification: \_\_\_\_\_  
Are climatic/hydrologic conditions of the site typical for this time of the year? N (If no, explain in remarks)  
Are vegetation \_\_\_\_\_, soil \_\_\_\_\_, or hydrology \_\_\_\_\_ significantly disturbed? Are "normal circumstances" \_\_\_\_\_  
Are vegetation \_\_\_\_\_, soil \_\_\_\_\_, or hydrology \_\_\_\_\_ naturally problematic? present? No  
**SUMMARY OF FINDINGS** \_\_\_\_\_ (If needed, explain any answers in remarks.)

Hydrophytic vegetation present?	<u>Y</u>	is the sampled area within a wetland? <u>Y</u> if yes, optional wetland site ID: _____
Hydric soil present?	<u>Y</u>	
Wetland hydrology present?	<u>Y</u>	

**VEGETATION** -- Use scientific names of plants.

Tree Stratum		Plot size: _____)	Absolute % Cover	Dominant Species	Indicator Status
1	_____				
2	_____				
3	_____				
4	_____				
5	_____				
			0 = Total Cover		
Sapling/Shrub stratum		Plot size: _____)			
1	<i>Fraxinus americana</i>		15	Y	FACU
2	_____				
3	_____				
4	_____				
5	_____				
			15 = Total Cover		
Herb stratum		Plot size: _____)			
1	<i>Carex stricta</i>		50	Y	OBL
2	<i>Helianthus grosseserratus</i>		10	Y	FACW
3	<i>Solidago gigantea</i>		10	Y	FACW
4	<i>Phragmites australis</i>		10	Y	FACW
5	<i>Lycopus uniflorus</i>		5	N	OBL
6	<i>Verbena hastata</i>		5	N	FACW
7	<i>Heuchera richardsonii</i>		5	N	FAC
8	<i>Equisetum arvense</i>		3	N	FAC
9	_____		3	N	
10	_____		3	N	
			104 = Total Cover		
Woody vine stratum		Plot size: _____)			
1	_____				
2	_____				
3	_____				
4	_____				
5	_____				
			0 = Total Cover		

Dominance Test Worksheet	
Number of Dominant Species that are OBL, FACW, or FAC:	4 (A)
Total Number of Dominant Species Across all Strata:	5 (B)
Percent of Dominant Species that are OBL, FACW, or FAC:	80.00% (A/B)

Prevalence Index Worksheet	
Total % Cover of:	
OBL species	55 x 1 = 55
FACW species	35 x 2 = 70
FAC species	8 x 3 = 24
FACU species	15 x 4 = 60
UPL species	0 x 5 = 0
Column totals	113 (A) 209 (B)
Prevalence Index = B/A =	1.85

Hydrophytic Vegetation Indicators:	
Rapid test for hydrophytic vegetation	
X	Dominance test is >50%
X	Prevalence index is ≤3.0*
Morphological adaptations* (provide supporting data in Remarks or on a separate sheet)	
_____	Problematic hydrophytic vegetation* (explain)
*Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic	
Hydrophytic vegetation present? Y	

Very wet year, antecedent precipitation indicates 18 (wetter than normal).

## Sampling Point: 3

[illegible]

Hydric Soil Indicators:		Indicators for Problematic Hydric Soils:	
<input type="checkbox"/> Histisol (A1)	<input type="checkbox"/> Sandy Gleyed Matrix (S4)	<input type="checkbox"/> Coast Prairie Redox (A16) (LRR K, L, R)	
<input type="checkbox"/> Histic Epipedon (A2)	<input type="checkbox"/> Sandy Redox (S5)	<input type="checkbox"/> Dark Surface (S7) (LRR K, L, R)	
<input type="checkbox"/> Black Histis (A3)	<input type="checkbox"/> Stripped Matrix (S6)	<input type="checkbox"/> 5 cm Mucky Peat or Peat (S3) (LRR K, L, R)	
<input type="checkbox"/> Hydrogen Sulfide (A4)	<input type="checkbox"/> Loamy Mucky Mineral (F1)	<input type="checkbox"/> Iron-Manganese Masses (F12) (LRR K, L, R)	
<input type="checkbox"/> Stratified Layers (A5)	<input type="checkbox"/> Loamy Gleyed Matrix (F2)	<input type="checkbox"/> Very Shallow Dark Surface (TF12)	
<input type="checkbox"/> 2 cm Muck (A10)	<input type="checkbox"/> Depleted Matrix (F3)	<input type="checkbox"/> Other (explain in remarks)	
<input checked="" type="checkbox"/> Depleted Below Dark Surface (A11)	<input checked="" type="checkbox"/> Redox Dark Surface (F6)		
<input type="checkbox"/> Thick Dark Surface (A12)	<input type="checkbox"/> Depleted Dark Surface (F7)		
<input type="checkbox"/> Sandy Mucky Mineral (S1)	<input type="checkbox"/> Redox Depressions (F8)		
<input type="checkbox"/> 5 cm Mucky Peat or Peat (S3)			

\*Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic

Type: \_\_\_\_\_ Hydric soil present? Y  
Depth (inches): \_\_\_\_\_

## HYDROLOGY

Primary Indicators (minimum of one is required; check all that apply)		Secondary Indicators (minimum of two required)	
<input type="checkbox"/>	Surface Water (A1)	<input type="checkbox"/>	Aquatic Fauna (B13)
<input checked="" type="checkbox"/>	High Water Table (A2)	<input type="checkbox"/>	True Aquatic Plants (B14)
<input checked="" type="checkbox"/>	Saturation (A3)	<input type="checkbox"/>	Hydrogen Sulfide Odor (C1)
<input type="checkbox"/>	Water Marks (B1)	<input type="checkbox"/>	Oxidized Rhizospheres on Living Roots (C3)
<input type="checkbox"/>	Sediment Deposits (B2)	<input type="checkbox"/>	Presence of Reduced Iron (C4)
<input type="checkbox"/>	Drift Deposits (B3)	<input type="checkbox"/>	Recent Iron Reduction in Tilled Soils (C6)
<input type="checkbox"/>	Algal Mat or Crust (B4)	<input type="checkbox"/>	Thin Muck Surface (C7)
<input type="checkbox"/>	Iron Deposits (B5)	<input type="checkbox"/>	Gauge or Well Data (D6)
<input type="checkbox"/>	Inundation Visible on Aerial Imagery (B7)	<input type="checkbox"/>	Other (Explain in Remarks)
<input type="checkbox"/>	Sparsely Vegetated Concave Surface (B8)	<input checked="" type="checkbox"/>	Geomorphic Position (D2)
<input type="checkbox"/>	Water-Stained Leaves (B9)	<input checked="" type="checkbox"/>	FAC-Neutral Test (D5)

Surface water present?	Yes	No	X	Depth (inches):		<b>Wetland hydrology present?</b>
Water table present?	Yes	X	No	Depth (inches):	0-1"	
Saturation present?	Yes	X	No	Depth (inches):	0-1"	

(Includes capillary fringe)

Y

20 years of aerial photos showing periods of altered pattern, haying, non-cropping, and wetness. This area is not affected by the tile



## Landowner Statements on 6/1/11:

- Purchased the lot in 2006; it was advertised as a hobby farm - 11+ acres.
- Started construction on the site in 2008 - The detached 3 car garage was built first, and then the house construction began after that.
- Walkout basement is wet right now – we plan to install additional tile and a layer of rock to dry this out.
- We plan to build a barn and install fences around perimeter for our horses.
- When construction began, wet soil forced us to install 3 perforated tile lines running up to and adjacent to the house. The 3 lines go into one main tile line that takes it away from the property.
- Nobody told us there were wetlands out here. Why didn't the "City" tell us?
- Our yard does stay wet for quite awhile, but does dry up later in the summer. The tile has helped keep things drier.
- No fill was brought into the site with the exception of the crushed rock for the driveway. The soil that was excavated for the foundation was stockpiled and then used to backfill and provide positive drainage away from the house.
- We love wildlife. We didn't intend to destroy wetlands.

## Potential Violation Site



0 45 90 180 270 360 Feet





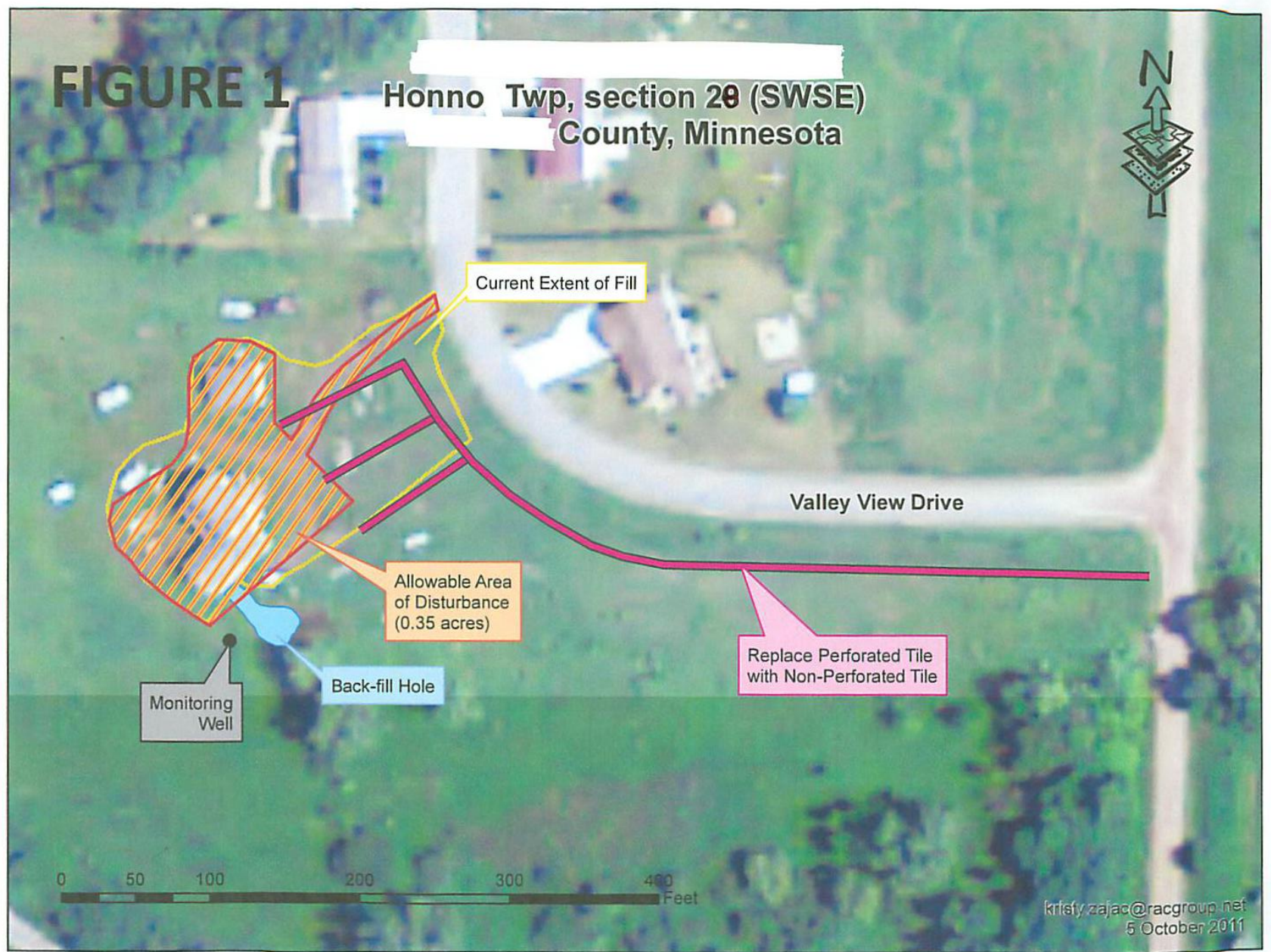
# Potential Violation

7) Handouts: photos, data sheets, activity history. **How would you resolve this?**

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# Restoration Map





# Potential Violation

7) Handouts: photos, data sheets, activity history.

## **How would you resolve this?**

- Restore what you can. Be specific on how they are to restore it.
- Calculate areas that are not feasible to restore. Suggest an acceptable replacement option for these areas. (Must consult with DNR Enforcement on this)
- Provide language as to future limitations they should be aware of
- If appropriate, sit down with landowner to discuss prior to DNR issuing Restoration Order